

# Texas Commission on Environmental Quality Oil and Gas Discharge Delegation Stakeholder Meeting

March 18, 2021 @ 1:30 p.m.  
Via MS Teams Live Event

## Meeting Summary

### Welcome and Introductions

Commissioner Emily Lindley

### Status of the NPDES Application

Commissioner Emily Lindley

- TCEQ's NPDES partial program delegation became effective on January 15, 2021 and was posted in the Federal Register on February 12, 2021.
- TCEQ is now issuing permits for oil and gas wastewater discharges.
- Also, we are following Senate Bill 601 and if approved, it would create a Texas Produced Water Consortium.

### Introduction of Oil & Gas Permitting Team

David Galindo

- Provided introductions for permitting staff who will be working on wastewater permits for oil and gas facilities.

### Permitting Process

Jaspinder "Preet" Singh

- Good afternoon, my name is Jaspinder Singh, I also go by Preet. I am an Environmental permit specialist with Industrial Wastewater Permits Team under Water Quality Division.
- I am here today to go over Texas Commission on Environmental Quality (TCEQs) Individual Industrial Wastewater Discharge Permitting Process. Before I start my presentation, here is the link to the application on TCEQ webpage:
  - [https://www.tceq.texas.gov/permitting/wastewater/industrial/TPDES\\_industrial\\_waste\\_water\\_steps.html](https://www.tceq.texas.gov/permitting/wastewater/industrial/TPDES_industrial_waste_water_steps.html)
- The Oil and Gas Exploration and Production Wastewater Permit application has two major components:
  - Administrative Report and
  - Technical Report.
- We have created a separate administrative report for oil and gas exploration and production facilities seeking authorization to discharge under an individual industrial wastewater permit. Additionally, we have updated the existing technical report of the application to include information regarding oil and gas exploration and production facilities. Worksheet 12.0 in the technical report of the application requests specific information for oil and gas exploration and production facilities.

- Next, I will cover who needs to apply for oil and gas exploration and production individual wastewater discharge permit - Oil and gas facilities located west of 98th meridian and gas plants that discharge into water in the state will need to get an authorization under an individual industrial wastewater discharge permit.
- Permitting process flowchart available at: <https://www.tceq.texas.gov/permitting/wastewater/housebill-2771>
- The first step in the permitting process is administrative review. The applicant sends the application to the Application Review and Processing Team (ARP), where they review the application for administrative completeness. If the application is incomplete, a notice of deficiency is sent to the applicant requesting additional information. Once the application is administratively complete, a Notice of Receipt of Application and Intent to apply (NORI) is sent to the applicant for immediate publication through the Office of the Chief Clerk (OCC). Publication of this notice begins the public comment period.
- The next step in the process is Assessment Review. After the application is declared administratively complete, the Water Quality Assessment Section (WQA) begins their technical review of the application. During this time, the assessment section drafts various memorandums such as the critical conditions memo, the standards memo, the biomonitoring memo, the modelling memo etc.
- Once the assessment section review is completed, the next step in the permitting process is technical review. The permit writer/permit coordinator receives the application and associated memorandums from the WQA Section and completes the technical review of the application. At this time, input from technical teams, TCEQ regional offices, the Enforcement Division, and from the applicant is considered.
- After completing the technical review, the permit moves on to the next step in the process, which is “draft permit developed”. The permit writer prepares the draft permit package for review by the applicant and TCEQ staff. At this step, the applicant gets the opportunity to review the draft permit and provide their approval.
- Once approval from the applicant is received, the next step is the second public notice, also known as Notice of Application and Preliminary Decision (NAPD). The notice is sent out to the applicant for immediate publication through the Office of the Chief Clerk. During this time the draft permit will also be sent to United States Environmental Protection Agency (EPA) for their review and approval. The publication of the NAPD by the applicant provides an opportunity for public to submit comments or to request a public meeting or a contested case hearing.
- If comments are submitted, the permit writer and TCEQ legal staff draft a response to comments once the comment period is closed.
- If a public meeting is requested, TCEQ coordinates with the appropriate parties to schedule a public meeting when there is a significant interest in the application or a legislator from the area of the proposed project requests a public meeting.
- If contested case hearing is granted, it is a legal proceeding similar to a civil trial. Hearings are conducted by the State of Administrative Hearing (SOAH), not by the TCEQ. Any issuance or denial of the permit depends on the outcome of the hearing.
- If no comments, public meeting request, or contested case hearing request is received, then the permit moves to the final step of issuance.

## Permitting FAQs

Jaspinder “Preet” Singh  
Cole Gray, Ph.D.

- FAQs Handout available at: <https://www.tceq.texas.gov/permitting/wastewater/housebill-2771>

## Status of Oil & Gas General Permits (TXG31 and WQG28)

Chris Linendoll

- **Stripper/Coastal/Territorial Seas TPDES General Permit TXG310000:**
  - TPDES general permit will replace existing EPA General Permit Nos. TXG260000 (Territorial Seas Facilities) and TXG330000 (Stripper Well Facilities and Coastal Facilities).
  - This TPDES general permit will also be made available to replace existing individual RRC authorizations and provide both state and federal authority to discharge to surface waters.
  - Stripper Facilities – onshore production and well treatment facilities of less than 10 barrels/day crude oil production and operating at maximum feasible rate of production. Restrictions on levels of natural gas produced and does not apply to enhanced oil and gas recovery facilities (unconventional). GP will apply only to stripper wells east of the 98th meridian and prohibition on discharges to marine water bodies. Only discharges proposed for authorization are produced wastewater and well treatment/workover fluids.
  - Coastal Facilities – located in/on waters of the U.S. landward of the inner boundary of the territorial seas and inland based on latitude and longitude coordinates established in 40 CFR Part 435, Subpart D. Applicable to facilities engaged in field exploration, drilling, well production, and well treatment. Waste streams proposed for discharge – deck drainage, domestic waste, sanitary waste, and miscellaneous waste (utility type wastewaters). Prohibition on discharge of produced wastewater, produced sand, well treatment/completion/workover fluids, and all forms of drilling fluids and associated drill cuttings.
  - Territorial Seas Facilities – offshore facilities located in waters within 3 miles of shoreline seaward of the inner boundary of the territorial seas. Applicable to facilities engaged in field exploration, drilling, well production, and well treatment. Waste streams proposed for discharge – deck drainage, domestic waste, sanitary waste, miscellaneous waste (utility type wastewaters), produced wastewater, and well treatment/completion, and workover fluids. Prohibition on discharge of all forms of drilling fluids and drill cuttings and produced sand.
  - Next Steps – draft general permit and fact sheet have been prepared and currently working through TCEQ management briefings. GP will then be transmitted to EPA for 90-day review and comment process. Following resolution of EPA comments and objection (if applicable), GP will be published in the Texas Register and multiple state-wide newspapers for a 30-day public comment period, followed potentially with a public meeting. TCEQ will respond to all public comments received and set the GP on commission agenda for consideration of issuance by the Commission. Following issuance existing facilities authorized under the existing NPDES general permits and individual RRC authorizations will have 90 days to submit NOI to continue authorization to discharge.

- **Outer Continental Shelf State-Only General Permit WQG280000:**
  - State-only general permit will be made available to replace existing individual RRC authorizations. Note – currently RRC only permits discharges of produced wastewater, where other waste stream discharges are required to be permitted by TCEQ under the Texas Water Code.
  - The requirement to obtain TCEQ authority to discharge to surface waters under the proposed state-only general permit is in addition to obtaining separate NPDES authorization to discharge from EPA under EPA’s existing Outer Continental Shelf Oil and Gas General Permit No. GMG290000. TCEQ does not have authority to issue federal authorizations beyond 3 statute miles of the shoreline.
  - State of Texas authority to regulate discharges extends to 3 marine leagues (10.2 miles), Outer Continental Shelf facilities beyond this distance are only regulated by EPA.
  - Outer Continental Shelf Facilities - offshore facilities located in waters seaward of the inner boundary of the territorial seas beyond 3 miles of the shoreline. Applicable to facilities engaged in field exploration, drilling, well production, and well treatment. Waste streams proposed for discharge – deck drainage, domestic waste, sanitary waste, miscellaneous waste (utility type wastewaters), produced wastewater, well treatment/completion, and workover fluids, water-based drilling fluids and associated drill cuttings, and drill cuttings associated with non-aqueous drilling fluids. Prohibition on discharge of non-aqueous based drilling fluids and produced sand.
  - Next Steps – draft general permit and fact sheet are currently under development addressing complex technical issues associated with discharges of drilling fluids and associated drill cuttings. The state-only general permit is not under the TPDES program and not subject to EPA 90-day review. Plan is to sync this state-only general permit with the combined TPDES general permit and go out to public notice simultaneously. At the public notice stage, this state-only general permit will follow the same process as the TPDES general permit. NOIs required within 90 days of GP issuance to replace existing RRC authorizations to continue authorization to discharge since RRC only authorizes produced wastewater discharges and other discharges are required to be permitted under the Texas Water Code.

**Inspections & Compliance Monitoring**

**Macy Beauchamp**

- The Compliance Monitoring Team in the Office of Compliance and Enforcement is responsible for the review of self-reported data which is reported on Discharge Monitoring Reports (DMRs) from TPDES permittees.
- DMRs are required to be reported electronically and currently Oil and Gas DMRs are reported to EPA through the R6 NetDMR instance. We are working with EPA staff in Region 6 and Headquarters to move the permit data from their database to the TCEQ database which will allow users to report DMRs to TCEQ.
- Once the permit data is moved, current users can go into CDX to associate themselves to permits in the Texas NetDMR. In early January we presented the steps for users to associate a new program service and we will be sending out an email guide to users currently associated with permits in NetDMR as the permits are queued to move over to TCEQ.
- For now, all Oil and Gas permittees will report DMRs at least up until monitoring period ending March 31st through the EPA’s R6 NetDMR instance.

- If you are a current Oil and Gas user and you need assistance changing program services or a new user associated to the new general permits and need assistance just signing up, you can call our NetDMR line at 512-239-3367 or email us at [NetDMR@TCEQ.Texas.gov](mailto:NetDMR@TCEQ.Texas.gov).
- Once the data is being reported through the Texas NetDMR system, the Compliance Monitoring Team will be monitoring compliance with reporting requirements and effluent limits for these permits.

## Announcements

David Galindo

- Next Meeting: June 17, 2021
- TCEQ webpage <https://www.tceq.texas.gov/permitting/wastewater>

## Questions & Answers

Mike Lindner

**Question 1:** I have a pending permit renewal and modification application with EPA. The permit writer has indicated it's being transferred to TCEQ but the MOA clearly states this would stay with EPA. I called TCEQ to ask and they confirmed EPA is keeping pending applications. Can you please clarify how this situation is being handled or provide advice on what to do next?

**Answer:** The EPA is not keeping all pending applications. The EPA should be keeping any pending applications with a variance request, modification request, or amendment request. On what to do next, please try to point out to EPA what the MOA says. If EPA still thinks the application should be with the TCEQ, please get the name of the EPA staff member and someone from the TCEQ will contact them to resolve this.

**Question 2:** If a discharge is going to be on land but will reach a Water of the State, is that RRC jurisdiction or is that TCEQ jurisdiction?

**Answer:** If a discharge is going to be on land but will reach a Water of the State, that is TCEQ jurisdiction.

**Question 3:** Will a discharge to the ground that is not associated with reuse or irrigation be under the jurisdiction of the TCEQ? And if under the TCEQ will an NOI be required?

**Answer:** A discharge to the ground that is not associated with reuse or irrigation, but that does go to an evaporation pond, would be under the jurisdiction of the Railroad Commission. If the discharge to the ground is not associated with any of those three (reuse, irrigation, or evaporation) and would not be discharging to a water in the state (e.g. surface water or ground water), the discharge would be under the jurisdiction of the Railroad Commission. If the discharge to the ground is not associated with any of those three and could end up in surface water, the discharge would be under the jurisdiction of the TCEQ's TPDES program. If the discharge to the ground was not associated with any of those three and is to groundwater, it would be under the jurisdiction of the TCEQ's Underground Injection Control program. In the cases mentioned above where the jurisdiction would be under the TCEQ, an NOI would be required in some cases where the kind of TPDES permit was a general permit.

**Question 4:** Currently, TCEQ's Construction GP & MSGP for stormwater discharges indicates it does not authorize discharges from oil and gas activities. Do operators continue to submit these NOIs to EPA?

**Answer:** Yes, operators should continue to submit these NOIs to the EPA. The TCEQ is looking at updating the construction stormwater general permit and the multi sector general permit to include stormwater discharges from oil and gas activities. But until the TCEQ has actually revised those permits, operators need to continue to go through the notice process and get those approved by EPA for use. Hopefully the TCEQ will have some more information on this at the next stakeholder meeting. So yes, in the absence of not having a state authorization, for now, operators should continue to submit these NOIs to EPA.

**Question 5:** When will we be able to set up our NPDES Permits with the TCEQ to submit quarterly reports?

**Answer:** Once TCEQ has your permit queued for transfer, we will send out an email to let you know the timeline to pick your new program service in CDX if you already have an account and then submit your report. You will report at least up until the March 31<sup>st</sup> monitoring period to EPA Region 6. If you don't already have a CDX account, there are instructions to do get set up at: <https://www.tceq.texas.gov/permitting/netdmr>.

**Question 6:** What are the next steps if we need a permit?

**Answer:** The first step if you need a permit would be to figure out what kind of permit you need, since the steps will vary based on that. To find out what kind of permit you need, you can call Mike Lindner, Team Leader of the Industrial Wastewater Permits Team, at (512) 239-3045, or send an email to the oil and gas wastewater permitting email box, [HB2771@tceq.texas.gov](mailto:HB2771@tceq.texas.gov). You are also welcome to request a pre-application meeting with the TCEQ. Once we figure out what kind of permit you need, we can let you know what the next steps are from there.

**Question 7:** For a facility that has an individual NPDES permit that was issued by EPA and a RRC permit, does the permittee submit an application for renewal 180 days prior to NPDES permit expiring?

**Answer:** For a facility that has a NPDES permit through EPA and an RRC permit, the application for permit renewal would need to be submitted 180 days prior to the expiration date of whichever of those two permits expires first.

**Question 8:** TCEQ has a general permit for "discharges" to evaporation ponds cooling ponds because of potential for contaminants to reach groundwater, which is a water of the state. Why would RRC rather than TCEQ regulate discharges on the surface that might reach groundwater?

**Answer:** See the first paragraph of the answer to Question 3.

**Adjournment**

**David Galindo**

To be added to the HB2771 stakeholder list for future meetings and correspondence, please email your request to [HB2771@tceq.texas.gov](mailto:HB2771@tceq.texas.gov).

The meeting will be available after the meeting at <https://www.youtube.com/user/TCEQNews>.